

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1281

Introduced by Assembly Member Portantino

February 27, 2009

An act to add Section 49062.5 to the Education Code, relating to pupil data.

LEGISLATIVE COUNSEL'S DIGEST

AB 1281, as amended, Portantino. Pupil data: California School Racial Equality Designation Act.

(1) Existing law establishes the public elementary and secondary school system in this state. Under this system, school districts throughout the state provide instruction to pupils in kindergarten and grades 1 to 12, inclusive, at the public elementary and secondary schools.

This bill would enact the California School Racial Equality Designation Act. The bill would express findings and declarations of the Legislature relating to the collection of data on the race or ethnicity of persons who identify themselves as members of more than one race.

The bill would require any public elementary or secondary school in this state that directly, or by contract, collects demographic data on the race or ethnicity of its pupils to provide forms that offer respondents the option to select one or more racial designations pursuant to prescribed federal guidelines and to ensure that the data is tabulated and reported as specified *written instructions for reporting racial information that specify that multiracial pupils may check 2 or more boxes*. The bill would require public elementary schools, as well as local educational agencies, to comply as early as reasonably feasible when updating forms, software, hardware, or information collection

procedures pursuant to the bill, but in no event later than the commencement of the fall semester of the 2010–11 academic year.

Because this bill would impose new duties on local educational agencies, it would constitute a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 49062.5 is added to the Education Code,
2 to read:

3 49062.5. (a) This section shall be known and may be cited as
4 the California School Racial Equality Designation Act.

5 (b) The Legislature hereby finds and declares all of the
6 following:

7 (1) The State of California currently has the largest population
8 of people among the 50 states who checked more than one race in
9 the 2000 Census, which ~~provided the first-ever option for~~
10 ~~respondents to identify themselves as members of more than one~~
11 ~~race, and this population of Californians who identify themselves~~
12 ~~as such is rapidly growing.~~ *was the first time that multiracial*
13 *individuals were allowed to accurately identify their full heritage.*
14 *Forty-two percent of persons who chose more than one race on*
15 *the United States 2000 Census were under 18 years of age.*

16 (2) *Many changes that have influenced terminology for the race*
17 *and ethnicity of Americans have started with data collection forms.*
18 *Although the census is often a source for the proper terms to refer*
19 *to individual races and ethnicities, it is not infallible, has changed*
20 *terminology and definitions often, and has frequently changed due*
21 *to public usage of terminology. For example, in 1850, United States*
22 *Census forms carried this terminology: "Color (White, Black or*
23 *Mulatto)." In 1880, the forms stated: "Color--White, W; Black,*
24 *B; Mulatto, Mu; Chinese, C; Indian, I." The 1930 Census was the*

1 last time that census takers were ordered to apply the “one drop
2 rule.” In fact, the only definition that has never changed on the
3 Census is the definition of “White.”

4 (3) Just as the federal government officially replaced “Oriental”
5 or “Chinese” with “Asian,” changed “Colored” to “Negro,”
6 “African American,” or “Black,” and changed “Alaskan Native”
7 to “Alaska Native,” the federal government has heard, and
8 answered to, the public’s need for changes in terminology. In
9 California, Section 8310.5 of the Government Code goes even
10 further by requiring state agencies to include the “Asian” category,
11 as well as 11 subcategories, on every form requiring racial and
12 ethnic data.

13 (4) Today, while the census allows persons to check more than
14 one box, it does not collectively refer to those individuals as
15 multiracial, but rather as “people of more than one race in the
16 United States” or as “people of two races.” During hearings in
17 Washington, D.C. in 1993, the Office of Management and Budget
18 asked parents of multiracial children, as well as multiracial adults,
19 for one defining term, and that term was, and remains today,
20 “multiracial.”

21 (5) The “Standards for Maintaining, Collecting, and Presenting
22 Federal Data on Race and Ethnicity” were published in 1997 by
23 the federal Office of Management and Budget. These standards
24 require federal agencies to ensure that individuals have the option
25 of selecting one or more ethnic or racial designation on federal
26 government forms.

27 (6) (A) Beginning in the 2009–10 fiscal year, the United States
28 Department of Education will require schools and school districts
29 to collect and report race and ethnicity data using a two-part
30 question, which will consist of one question for ethnicity (Hispanic
31 or Latino) and one question for race. The State Department of
32 Education is incorporating the federal requirements regarding
33 race and ethnicity into the California Longitudinal Pupil
34 Achievement Data System, but its “Guidance Letter, Attachment
35 1” to schools and school districts does not include or mention
36 multiracial children. The inclusion of multiracial children is
37 therefore possible and preferable in the written instructions, and
38 will not change the data in anyway.

39 (B) The document “Managing an Identity Crisis: Forum Guide
40 to Implementing new Federal Race and Ethnicity Categories” has

1 *been issued by the National Forum on Education Statistics. This*
2 *task force, chosen by the United States Department of Education,*
3 *selected 22 educators from 14 state departments of education and*
4 *consultants to disseminate their findings and suggestions to the*
5 *states. None were from California. States will differ on their ethnic*
6 *and racial forms. One state is using 63 racial categories, another*
7 *state is asking multiracial students for one and only one final*
8 *classification, and most states have not yet decided on their*
9 *recommendations.*

10 *(7) Multiracial children have historically been forced to choose*
11 *a single race when demographic information is collected. Although*
12 *it is progress to have the ability to check more than one box, it is*
13 *also time to terminate the option of using pejorative or derogatory*
14 *terminology for this group of Americans, which have included*
15 *such terms as mulatto, mixed-up, half-caste, mutt, oreo, and*
16 *half-breed. Although most states do not use the term “multiracial”*
17 *to validate the existence of this growing population, where 10*
18 *states and numerous school districts have adopted a term,*
19 *“multiracial” is overwhelmingly the word of choice. In the most*
20 *comprehensive book on the subject, The Multiracial Experience:*
21 *Racial Borders in the New Frontier (1996; Sage Publications,*
22 *Maria P.P. Root, Editor), the glossary states:*

23 *“Multiracial refers to people who are of two or more racial*
24 *heritages. It is the most inclusive term to refer to people across*
25 *all racial mixes. Thus it also includes biracial people.”*

26 *(8) California has the opportunity at this time to be the most*
27 *progressive of all 50 states by utilizing the term “multiracial,”*
28 *while other states will adopt the federal guidelines. The act that*
29 *adds this section will allow multiracial children in California*
30 *schools to feel included in the system, not excluded and invisible.*
31 *Furthermore, it will give teachers and administrators a clear and*
32 *appropriate term when asked what to call multiracial children. It*
33 *is time to give our multiracial population the dignified, clear, and*
34 *consistent terminology they deserve.*

35 *(9) (A) Information should not deprive the state and*
36 *policymakers of accurate data with which to meet the needs of its*
37 *diverse students. Unless multiracial students are included as a*
38 *community of individuals that California specifies when it collects*
39 *data or assesses the needs of its students, policymakers are denied*
40 *accurate information. Reports comparing students based on race*

1 *and ethnicity data have rarely included multiracial students. We*
2 *will now have the ability to collect the data, but we should not stop*
3 *short of enacting the proper terminology.*

4 *(B) In a paper published by the Psychological Study of Social*
5 *Issues (2009), The Interpretation of Multiracial Status and Its*
6 *Relation to Social Engagement and Psychological Well-Being,*
7 *researchers from Stanford University, the University of California,*
8 *Los Angeles, and the University of Kansas, studied 182 multiracial*
9 *students in California. Results showed that, compared with*
10 *multiracial individuals who identified primarily with a low-or*
11 *high-status group, those who identified with multiple groups tended*
12 *to report either equal or higher psychological well-being and*
13 *social engagement. The Board of Education of the Canton City*
14 *Schools of Canton, Ohio (Ohio was the first state to add a*
15 *multiracial classification to its school forms) found that multiracial*
16 *girls have the highest graduation rate among all subgroups. This*
17 *is the kind of information California schools could glean from*
18 *similar data.*

19 *(10) With most of the nation's multiracial population residing*
20 *in California and with the expectation that this population will*
21 *continue to grow, it is in the best interests of the State of California*
22 *to collect accurate multiracial data relating to children in the*
23 *California public schools.*

24 *(11) To ensure that all children find themselves on data*
25 *collection forms, respect for their individual dignity is part of the*
26 *process, and methods for collecting and encoding data on race*
27 *and equality is as inclusive as possible. The term multiracial should*
28 *be incorporated at the very least in written instructions to students.*

29 *(12) At this time when new forms are being developed to*
30 *conform to federal guidelines, it is a prime opportunity to validate*
31 *the growing multiracial pupil population in California and use*
32 *data collection to accurately track their progress in California*
33 *schools.*

34 *(c) Any public elementary or secondary school in this state that*
35 *directly, or by contract, collects demographic data on the race or*
36 *ethnicity of its pupils shall provide the following written*
37 *instructions for reporting racial or ethnic information on all forms:*
38 *“Multiracial pupils may check two or more boxes.”*

39 *(d) Each local educational agency or public elementary or*
40 *secondary school that is required to comply with subdivision (c)*

1 *shall comply as soon as reasonably feasible when updating forms,*
2 *software, hardware, or information collection procedures, and in*
3 *no event later than the commencement of the fall semester of the*
4 *2010–11 academic year.*

5 *SEC. 2. If the Commission on State Mandates determines that*
6 *this act contains costs mandated by the state, reimbursement to*
7 *local agencies and school districts for those costs shall be made*
8 *pursuant to Part 7 (commencing with Section 17500) of Division*
9 *4 of Title 2 of the Government Code.*

10 ~~(2) Many California public elementary and secondary school~~
11 ~~forms currently require that pupils or their parents choose only a~~
12 ~~single race when racial classifications are required, and this forces~~
13 ~~them to deny a significant part of their heritage and choose between~~
14 ~~their parents. Information collected in this manner often deprives~~
15 ~~the state of accurate data with which to meet the needs of its diverse~~
16 ~~communities. These children need to see a place for them on forms,~~
17 ~~using dignified, clear, and consistent terminology deemed most~~
18 ~~appropriate by the multiracial community.~~

19 ~~(3) It is in the best interests of the State of California to collect~~
20 ~~accurate biracial and multiracial data relating to children in the~~
21 ~~California public schools, as 42 percent of persons who chose more~~
22 ~~than one race on the 2000 Census were under the age of 18 and~~
23 ~~fall into the age range of elementary and secondary school pupils.~~
24 ~~Demographic classifications should be sensitive to the needs of~~
25 ~~interracial families and multiracial children so that they can~~
26 ~~embrace their entire heritage in future years.~~

27 ~~(4) Respect for individual dignity should guide the processes~~
28 ~~and methods for collecting and encoding data on race and equality.~~

29 ~~(5) Since 1997, the “Standards for Maintaining, Collecting, and~~
30 ~~Presenting Federal Data on Race and Ethnicity” of the federal~~
31 ~~Office of Management and Budget have required federal agencies~~
32 ~~to ensure that individuals have the option of selecting one or more~~
33 ~~ethnic or racial designations on federal government forms~~
34 ~~requesting this information.~~

35 ~~(6) This is the ideal time to close the gap in disparity in proper~~
36 ~~terminology for biracial and multiracial children. This timing~~
37 ~~coincides with the changes in federal guidelines. School is usually~~
38 ~~the place where children first see and understand appropriate~~
39 ~~terminology for themselves and their peers. Ten states have adopted~~
40 ~~a true multiracial classification in addition to a large number of~~

1 individual school districts in other states. The treatment of
2 California's pupil population in this regard should be proactive
3 and progressive on this issue.

4 (e) Any public elementary or secondary school in this state that
5 directly, or by contract, collects demographic data on the race or
6 ethnicity of its pupils shall do all of the following:

7 (1) Provide forms that offer respondents the option to select one
8 or more racial designations pursuant to guidelines of the United
9 States Department of Education, and designate written instructions
10 such as: "Choose one; or, if you consider yourself to be biracial
11 or multiracial, choose two or more."

12 (2) Ensure, in cases where data on the race and ethnicity of
13 pupils are reported to any other state agency, board, or commission,
14 that those data are neither tabulated nor reported without all of the
15 following:

16 (A) The number or percentage of respondents who identify with
17 each racial designation alone and not in combination with any
18 other ethnic or racial designation.

19 (B) The number or percentage of respondents who identify with
20 each ethnic or racial designation, whether alone or in combination
21 with other ethnic or racial designations.

22 (C) The number or percentage of respondents who identify with
23 multiple ethnic or racial designations, reported as "biracial or
24 multiracial (two or more races)."

25 (D) For civil rights monitoring and enforcement, complying
26 with the rules for multiple race response allocation issued by the
27 federal Office of Management and Budget Bulletin No. 00-02 in
28 cases of state or federally mandated actions related to an ethnic or
29 a racial community, or to assessing disparate impacts or
30 discriminatory patterns. In these cases, the requirements of
31 subparagraph (C) shall not be considered to be satisfied without
32 concurrent compliance with subparagraphs (A) and (B), as well
33 as this subparagraph.

34 (d) Each local educational agency or public elementary or
35 secondary school that is required to comply with subdivision (c)
36 shall comply as soon as reasonably feasible when updating forms,
37 software, hardware, or information collection procedures, and in
38 no event later than the commencement of the fall semester of the
39 2010-11 academic year.

1 ~~(e) Each public elementary or secondary school shall offer an~~
2 ~~opportunity to its pupils and staff, and encourage them, to reidentify~~
3 ~~their race or ethnicity using the new forms developed pursuant to~~
4 ~~this section as soon as these forms are available.~~

5 ~~SEC. 2. If the Commission on State Mandates determines that~~
6 ~~this act contains costs mandated by the state, reimbursement to~~
7 ~~local agencies and school districts for those costs shall be made~~
8 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
9 ~~4 of Title 2 of the Government Code.~~